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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

AMY G and GARY G, individually and as
representatives of the class of similarly
situated individuals,

Plaintiffs,

v.

UNITED HEALTHCARE and UNITED
BEHAVIORAL HEALTH,

Defendants.

**DEFENDANTS' MOTION FOR LEAVE
TO FILE UNDER SEAL DOCUMENTS
IN OPPOSITION TO PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

Case No. 2:17-cv-00413-DN-EJF

Pursuant to DUCivR 5-3, Defendants UnitedHealthcare Insurance Company and United Behavioral Health (“Defendants”), submit this Motion For Leave To File Under Seal Documents In Opposition To Plaintiffs’ Motion For Class Certification. Defendants request leave to file the following documents and exhibits in support of their Opposition to Plaintiffs’ Motion for Class Certification (“Opposition”) under seal:

- Portions of Defendants’ Opposition To Plaintiffs’ Motion For Class Certification, as identified by Defendants’ publically-filed redactions;
- Portions of the Declaration of Cara Johnson In Support thereof, as identified by Defendants’ publically-filed redactions;
- Portions of the Declaration of Andrew Holmer In Support thereof, as identified by Defendants’ publically-filed redactions; and
- Exhibits A, B, C, D, E, F, G, H, I, J, P, Q, and R to the Declaration of Andrew Holmer in their entirety.

ARGUMENT

Attached as Exhibits A, B, C, D, E, F, G, H, I, J, P, Q, and R to the Declaration of Andrew Holmer in Support of Defendants’ Opposition are deposition transcripts and documents which contain the protected health information (“PHI”), personal identifying information (“PII”), and/or other sensitive financial information of Plaintiffs, their son, and members of the proposed class, or the confidential business information of Defendants which is not publically known. Good cause exists for the Court to seal these exhibits, as well as certain portions of Defendants’ Opposition, the Declaration of Cara Johnson, and the Declaration of Andrew Holmer referencing these exhibits, because the interests favoring nondisclosure outweigh the public’s interest in disclosure. *See United States v. Jackman*, 2:09cv581 TS, 2011 WL 2790165 (D. Utah July 14, 2011). These documents and deposition transcripts were designated as Confidential during discovery under the operative protective order and contain the following protected information:

Exhibit	Protected Information Reflected in Exhibit
Exhibit A – Excerpts from the Deposition of Cara Johnson	Confidential testimony regarding Defendants’ internal business practices, which are not publically known.
Exhibit B – Excerpts from the Deposition of Dr. Randall Solomon	Confidential testimony regarding Defendants’ internal business practices, which are not publically known.
Exhibit C – Excerpts from the Deposition of Amy G.	Confidential testimony regarding Plaintiffs’ personal identifying information (“PII”) and personal financial information, and the protected health information (“PHI”) of Plaintiffs’ son A.G.
Exhibit D – Excerpts from the Deposition of Gary G.	Confidential testimony regarding Plaintiffs’ PII and personal financial information, and the PHI of Plaintiffs’ son A.G.
Exhibit E – Excerpts from the Deposition of Dr. Steve DeBois.	Confidential testimony by A.G.’s provider regarding A.G.’s PHI.
Exhibit F – Excerpts from the Deposition of Dr. Devan Glissmeyer.	Confidential testimony by A.G.’s provider regarding Plaintiffs’ PII and personal financial information, and A.G.’s PHI.
Exhibit G – Plaintiffs’ Benefit Plan	Confidential document reflecting the identity of Plaintiffs’ employer.
Exhibit H – Benefit Plan of an Absent Member of the Proposed Class	Confidential document reflecting the identity of the employer of an absent member of the proposed class.
Exhibit I – Benefit Plan of an Absent Member of the Proposed Class	Confidential document reflecting the identity of the employer of an absent member of the proposed class.
Exhibit J – Benefit Plan of an Absent Member of the Proposed Class	Confidential document reflecting the identity of the employer of an absent member of the proposed class.
Exhibit P – “Explanation of Benefits Statement” Document	Confidential document reflecting A.G.’s PHI as well as Plaintiffs’ PHI and personal financial information.
Exhibit Q – “Itemization of Psychotherapy” Document	Confidential document reflecting A.G.’s PHI as well as Plaintiffs’ PII and personal financial information.
Exhibit R – Summary Exhibit	Summary exhibit reflecting the PHI and personal financial information of numerous absent members of the proposed class.

The Rule 30(b)(6) deposition testimony of UBH employees Cara Johnson and Dr. Randall Solomon reflects detailed discussions of UBH's internal business systems and business practices, which UBH considers to be confidential and which UBH has designated throughout these proceedings as confidential information under the Protective Order entered by the Court. *See United States v. Approximately Up to \$15,253,826 in Funds Contained in Thirteen Bank Account*, 844 F. Supp. 2d 1218, 1220 (D. Utah 2012) (finding it proper to seal "confidential and proprietary financial and business information"). Much of the information discussed in these depositions is not public and disclosure of this information to the public and UBH's competitors would be competitively disadvantageous. The public, on the other hand, has little interest in this information. Accordingly, Defendants move the Court to seal Exhibits A and B to the Declaration of Andrew Holmer.

Additionally, Exhibits C, D, E, F, G, P, and Q to Defendants' Opposition contain PHI, PII, and/or other sensitive financial information concerning Plaintiffs and their son. These deposition transcripts and documents are replete with information protected under the Health Insurance Portability and Accountability Act ("HIPAA"), including but not limited to the name, address, telephone number, age, dates of admission and/or discharge of A.G., his relatives, and his parents' employer, all of which is protected from public disclosure as a matter of law under 45 C.F.R. §§ 164.502(a), 164.514(b). Exhibits H, I, J, and R to the Holmer Declaration contain similar PHI relating to absent members of the proposed class, which are also protected from public disclosure as a matter of law.

For the foregoing reasons, Defendants respectfully request that the Court grant Defendants leave to file Exhibits A, B, C, D, E, F, G, H, I, J, P, Q, and R to the Declaration of

Andrew Holmer in Support of Defendant's Opposition under seal. Defendants seek leave to file these documents under seal in their entirety, as the protected information contained therein is substantial and would render redaction impracticable. Defendants also respectfully request that the Court grant Defendants leave to file portions of their Opposition and portions of the Declarations of Cara Johnson and Andrew Holmer in support thereof referencing such protected information under seal. Defendants will contemporaneously file public redacted versions of their Opposition, the Declaration of Cara Johnson, and the Declaration of Andrew Holmer.

A proposed Order granting Defendants' request accompanies this motion.

Respectfully Submitted,

Dated: December 17, 2018

CROWELL & MORING LLP

/s/ Jennifer S. Romano

Jennifer S. Romano

April N. Ross

Andrew Holmer

Attorneys for Defendants